



**US Army Corps
of Engineers**
New England District

696 Virginia Road
Concord, MA 01742-2751

PUBLIC NOTICE

Date: July 5, 2000

Comment Period Ends: August 4, 2000

File Number: 200001619

In Reply Refer To: Brian E. Valiton

Or by e-mail: Brian.E.Valiton@usace.army.mil

Beverly Port Marina, 43 Water Street, Beverly, Massachusetts, 01915, has requested a temporary Corps of Engineers permit (until May 31, 2001) under Section 10 of the Rivers and Harbors Act of 1899, to temporarily retain and maintain year round existing unauthorized fuel lines, fuel dispensers (fuel pumps), and a fuel shed (for supplies, equipment and payments relating to the fueling operation) on existing floating docks that extend out into the authorized Federal navigation channel in Beverly Harbor. The fuel lines extend from the shore along existing permanent pile-anchored floating docks up to the Federal channel limit. From the Federal channel limit seaward (approximately 135 feet from the channel limit out to the end of the floating docks) the fuel lines are on bottom-moored floating docks which are not secured by pilings but rather by bottom anchors. The fuel dispensers and the fuel shed are in the channel on bottom-moored floating docks.

These fuel lines and fuel dispensers (but not the fuel shed) are on floating docks which were permitted by the Corps of Engineers in March 1978 to Beverly Harbour Marina Corporation. The existing floating structures are not in strict compliance with that 1978 permit and the 1978 permit did not include any permanent, year round, fuel dispensers, fuel lines or any buildings on floating docks. This public notice is only to seek public comments on the impacts of issuing the marina owners a temporary Corps permit to allow them to retain these fuel lines, fuel dispensers, and the fuel shed on the floating dock until May 31, 2001. The applicant has not yet provided long term plans for the facility.

The marina also has numerous other floating docks in the waterway which were not authorized by the required Corps permits or are in violation of previously issued Corps permits. Many of those structures are also in the authorized Federal navigation channel. The marina owners have agreed to apply for the necessary Corps of Engineers permits to bring this marina into compliance with Federal law.

The District Engineer has made a preliminary determination that the fuel lines, fuel dispensers and the fuel shed on the floating dock will not adversely affect any essential fish habitat (EFH). Further consultation with the National Marine Fisheries Service regarding EFH conservation recommendations is being conducted and will be concluded prior to the final decision.

In order to properly evaluate the proposal, we are seeking public comment. Anyone wishing to comment is encouraged to do so. Comments should be submitted in writing by the above date. If you have any questions, please contact Mr. Brian Valiton at (978) 318-8166, (800) 343-4789 or (800) 362-4367, if calling from within Massachusetts.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for a public hearing shall specifically state the reasons for holding a public hearing. The Corps holds public hearings for the purpose of obtaining public comments when that is the best means for understanding a wide variety of concerns from a diverse segment of the public.

**SEE NEXT PAGE FOR
DETAILS OF EVALUATION
FACTORS**

**Karen K. Adams
Chief, Permits & Enforcement Section
Regulatory Branch**

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity in the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which may reasonably accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are : conservation, economics, aesthetics, general environmental concerns, wetlands, cultural value, fish and wildlife values, flood hazards, flood plain value, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.

Where the activity involves the discharge of dredged or fill material into waters of the United States or the transportation of dredged material for the purpose of disposing it in ocean waters, the evaluation of the impact of the activity in the public interest will also include application of the guidelines promulgated by the Administrator, U.S Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act, and/or Section 103 of the Marine Protection Research and Sanctuaries Act of 1972 as amended.

Based on his initial review, the District Engineer has determined that the proposed work may impact properties listed in, or eligible for listing in, the National Register of Historic Places. Additional review and consultation to fulfill requirements under Section 106 of the National Historic Preservation Act of 1966, as amended, will be ongoing as part of the permit review process.

Pursuant to the Endangered Species Act, the District Engineer is hereby requesting that the appropriate Federal Agency provide comments regarding the presence of and potential impacts to listed species or its critical habitat.

The initial determinations made herein will be reviewed in light of facts submitted in response to this notice.

The following authorizations have been applied for, or have been, or will be obtained:

- ☐ Permit, License or Assent from the local Harbormaster.
- ☐ Permit from Local Wetland Agency or Conservation Commission.

The States of Connecticut, Maine, Massachusetts, New Hampshire and Rhode Island have approved Coastal Zone Management Programs. Where applicable the applicant states that any proposed activity will comply with and will be conducted in a manner that is consistent with the approved Coastal Zone Management Program. By this Public Notice, we are requesting the State concurrence or objection to the applicant's consistency statement.

All comments will be considered a matter of public record. Copies of letters of objection will be forwarded to the applicant who will normally be requested to contact objectors directly in an effort to reach an understanding.

THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.

If you would prefer not to continue receiving public notices, please check here ☐ and return this portion of the public notice to: U.S. Army Corps of Engineers – New England District, ATTN: Regulatory Branch, 696 Virginia Road, Concord, MA 01742-2751.

NAME:

ADDRESS: